ORIGINAL
FILE

RECEIVED
OCT 27 1992
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

LUKAS, MCGOWAN, NACE & GUTIERREZ
CHARTERED
1819 H STREET, N.W.
SEVENTH FLOOR
WASHINGTON, D.C. 20006

RUSSELL D. LUKAS
GERALD S. McGOWAN
DAVID L. NACE
THOMAS GUTIERREZ
ELIZABETH R. SACHS
GEORGE L. LYON, JR.
PAMELA L. GIST
MARCI E. GREENSTEIN+
DAVID A. LaFURIA
MARJORIE GILLER SPIVAK
MARJORIE K. CONNER++
BOB J. GOLDBERG
J. JUSTIN McCLURE+++

+ADMITTED IN PENNSYLVANIA ONLY
++ADMITTED IN TENNESSEE ONLY
+++ADMITTED IN MISSISSIPPI ONLY

CONSULTING ENGINEERS
THOMAS G. ADCOCK, P.E.
MEHRAN NAZARI
ALI KUZEHKANANI
SHAHRAM HOJATI
JAMES R. LANDOLL, P.E.
LEROY A. ADAM
JANIS VICK

(202) 857-3500

TELECOPIER
(202) 842-4485

WRITER'S DIRECT DIAL
(202) 828-9471

October 27, 1992

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

RE: Erratum to the American Mobile Telecommunications Association, Inc. Petition for Rule Making Filed October 26, 1992

Dear Ms. Searcy:

Please associate the enclosed original Table of Contents which was inadvertently left out of the above referenced Petition filed on October 26, 1992. For your convenience a copy of the Petition as filed is also enclosed.

Very truly yours,

Elizabeth R. Sachs

Enclosure

No. of Copies rec'd 0+1
List A B C D E

TABLE OF CONTENTS

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Amendment of Rules Governing	)	
800 MHz Specialized Mobile Radio	)	RM -
Service Systems to Permit the	)	
Licensing of Wide-Area Block	)	
Authorizations	)	

To: The Commission

PETITION FOR RULE MAKING
OF THE
AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

By: Alan R. Shark

Alan R. Shark, President
1835 K Street N.W., Suite 203
Washington, D.C. 20006

Of Counsel:

Elizabeth R. Sachs
Lukas, McGowan, Nace & Gutierrez
1819 H Street, N.W., Suite 700
Washington, D.C. 20006
(202) 857-3500

October 26, 1992

SUMMARY

The American Mobile Telecommunications Association, Inc. requests the initiation of a rule making proceeding to establish wide-area, block licensing procedures for Specialized Mobile Radio ("SMR") Services systems. A regulatory structure conducive to the development of technically advanced, spectrally efficient SMR systems capable of serving customers throughout an expanded geographic area will help satisfy the growing public demand for more ubiquitous personal communications capability.

AMTA has defined several criteria which it deems critical to the establishment of a viable SMR block licensing system. First, the scheme should recognize and facilitate the natural evolution toward wide-area SMR systems, yet retain mechanisms to preserve an adequate level of competition. Second, the plan should be inclusive in that it should encourage participation by all interested SMR operators, not only those with the largest number of frequencies in the geographic area defined. Third, it must be relatively easy to administer so that licenses can be issued, systems implemented, and regulatory oversight accomplished without undue delay or difficulty. Fourth, the authorizations granted should permit the licensee sufficient flexibility in system design and frequency plan to promote implementation of advanced technologies. Fifth, the geographic area covered by a block license should be large enough to accommodate inter-related commercial markets, yet small enough to maintain a healthy level of regional competition.

The core of AMTA's licensing proposal is that block licenses should be available over areas no smaller than MSAs and RSAs. Within those areas, a block licensee would be permitted to construct authorized frequencies at any location upon notification to the FCC as long as adequate protection continued to be provided to existing co-channel licensees within and outside of the defined market.

The need to adopt a regulatory procedure for authorizing wide-area, advanced technology SMR systems has been fully demonstrated. AMTA believes that the instant proposal properly balances the interests of existing versus prospective licensees, urban versus rural market needs, smaller versus larger operators, and advanced technology versus analog proponents.

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), pursuant to Section 1.401 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully requests the initiation of a rule making proceeding to establish wide-area, block licensing procedures for Specialized Mobile Radio ("SMR") Service systems. A regulatory structure conducive to the development of technically advanced, spectrally efficient SMR systems capable of serving customers throughout an expanded geographic area will help satisfy the growing public demand for more ubiquitous personal communications capability.

I. INTRODUCTION

AMTA is a nationwide, non-profit trade association devoted to the interests of the SMR industry. AMTA's members include large and small operators of trunked and conventional SMR facilities throughout the country. Among them are those SMRs who have pioneered the creation of the wide-area SMR concept. Some, like Fleet Call, Inc., Advanced Radio Communication Services of Florida and Mobile Radio New England, have already been authorized to reconfigure their analog high-power stations into system designs featuring digital technology and a mixture of high power/height and low power/height facilities.[1/] Others have

---

1/ See, Fleet Call Order, 6 FCC Rcd 1533 1991; recon. den., 6 FCC Rcd 6989 (1991); Application of Advanced Radio Communications Service of Florida, Inc.; and Application of Mobile Radio New England.

similar applications pending at the FCC.[2/] Each has sought the waiver of certain FCC regulations to permit the implementation of its system.

Other entities have suggested that the FCC modify its rules to promote the creation of wide-area SMR systems. For example, A&B Electronics has proposed a regulatory structure which would permit primarily rural operators to acquire multiple SMR stations within a defined geographic area under certain conditions.[3/] Fleet Call, Inc. has requested the creation of "innovator blocks" of unassigned SMR frequencies to be acquired via a competitive bidding, or auction, process.[4/] NABER has recommended that SMR licensees be permitted to re-use already authorized channels to expand their areas of coverage.[5/]

Each of these initiatives has a common objective - the creation of a wide-area SMR system with sufficient channel

---

2/ See Applications and Associated Waiver Requests of Cencall, Inc.; Industrial Communications and Electronics, Inc. Transit Communications Atlanta, L.P., Advanced MobileComm Midwest G.P., Dispatch Communications of the Mid-Atlantic, Inc. and Dispatch Communications of Pennsylvania, Inc., U.S. Digital, Inc., Air Link Communications, Inc., Johnson Communications Corporation, and Fleet Call, Inc.

3/ Petition for Rule Making, In the Matter of Modification of Section 90.627(b) and Other Provisions of the FCC's Regulations Affecting the Ownership of Specialized Mobile Radio Systems Within 40 Miles of Each Other, RM-8030.

4/ Petition for Rule Making, In the Matter of Policies and Rules for Licensing Fallow 800 Mhz Specialized Mobile Radio Spectrum Through a Competitive Bidding Process, RM-7985.

5/ Petition for Rule Making, In the Matter of Amendment of Section 90.631(g) and (h) of the Commission's Rules Concerning Wide-Area Specialized Mobile Radio and Business Radio Systems, RM-8029.

capacity and geographic coverage to accommodate the escalating demand for effectively seamless, mobile communications capability throughout an area of economic interdependence. Many also propose the implementation of advanced technologies which promise to increase both system capacity and customer service options. All face the same obstacle: an SMR regulatory structure which has produced intensive marketplace competition and spectrum utilization, but which inhibits the aggregation of systems into wide-area configurations. In AMTA's opinion, it is imperative that the Commission address this issue at the earliest possible opportunity so that SMRs have a viable mechanism for participating in the emerging wireless revolution.

II. THE EXISTING SMR REGULATORY STRUCTURE IMPEDES THE DEVELOPMENT OF WIDE-AREA CAPABILITY

By all applicable criteria, the SMR industry has been a resounding success. It has been in existence for little more than a decade, and is subject to strict regulations regarding system ownership, construction and utilization. Even so, it serves more than a million subscriber units with minimal FCC oversight. Customers on today's SMR systems enjoy the high quality of service and low costs typical of a highly competitive market environment.[6/]

However, the very regulations that fostered the publicly beneficial development of the SMR industry to date threaten to

---

6/ The intensely competitive nature of the SMR marketplace is detailed in Appendix B to Southwestern Bell Corporation's September 18, 1992 Request for Permanent Waiver of Rule Section 90.603(c) to permit wireline ownership of SMR stations.

impede the further evolution of those systems into operations optimally configured to meet the next century's personal communications needs. AMTA would not suggest that all SMR systems could or should participate in an advanced technology, wide-area configuration. The traditional analog facility has demonstrated an ability to satisfy important mobile requirements, typically emphasizing dispatch service in urbanized markets and interconnect capability in more rural areas. Many such systems will continue to thrive and more will undoubtedly be implemented. To the extent that the operators of those stations are satisfied with their current service offerings and system coverage, neither AMTA nor the FCC should dictate that they follow a different course. Nonetheless, the growing number of wide-area SMR waiver requests and petitions for rule making relating to that same issue are incontrovertible evidence that the need exists for an alternative regulatory structure conducive to an SMR block licensing scheme. For that reason, AMTA proposes the following approach.

III. A BLOCK LICENSING SCHEME FOR WIDE-AREA SMR SYSTEMS SHOULD PERMIT THE AGGREGATION OF SUFFICIENT CHANNELS AND GEOGRAPHIC COVERAGE TO JUSTIFY THE IMPLEMENTATION OF ADVANCED TECHNOLOGIES

AMTA has defined several criteria which it deems critical to the establishment of a viable SMR block licensing system. First, the scheme should recognize and facilitate the natural evolution toward wide-area SMR systems, yet retain mechanisms to preserve an adequate level of competition. Second, the plan

should be inclusive in that it should encourage participation by all interested SMR operators, not only those with the largest number of frequencies in the geographic area defined. Third, it must be relatively easy to administer so that licenses can be issued, systems implemented, and regulatory oversight accomplished without undue delay or difficulty. Fourth, the authorizations granted should permit the licensee sufficient flexibility in system design and frequency plan to promote implementation of advanced technologies. Fifth, the geographic area covered by a block license should be large enough to accommodate inter-related commercial markets, yet small enough to maintain a healthy level of regional competition.

The core of AMTA's licensing proposal is that block licenses should be available over areas no smaller than MSAs and RSAs.[7/] Within those areas, a block licensee would be permitted to construct authorized frequencies at any location upon notification to the FCC as long as adequate protection continued to be provided to existing co-channel licensees within and outside of the defined market. In that respect, the authorization would be comparable to today's cellular operators and future PCS providers.

More specifically, AMTA recommends the following:

7/ See, 47 C.F.R. §22.901 et seq. AMTA is also reviewing the alternative market definitions proposed in the PCS proceeding and may conclude that one of those approaches would be preferable for the block licenses proposed herein. Notice of Proposed Rule Making and Tentative Decision, Gen. Doc. No. 90-314, released August 14, 1992.

A. Markets With Fewer Than 42 Unassigned SMR Frequencies

In many MSAs and some RSAs, fewer than 42 and sometimes even no SMR channels remain unassigned to any licensee with those boundaries. It is more typically the case that multiple licensees within the area use the same frequencies at sites which satisfy the FCC's co-channel separation criteria.

In such areas, the Commission should establish a thirty-day window during which qualified applicants, as defined below, would be permitted to seek block license authorizations. Each applicant would consist of one or more licensees with an existing constructed SMR station within the area as of the date that the window is opened.[8/] Each would identify to the FCC all constructed, discrete frequencies operated by the applicant participant. Each must propose the implementation of an integrated wide-area SMR system utilizing an advanced technology capable of providing at least twice the channel capacity of state-of-the-art analog equipment, exclusive of frequency reuse.[9/]

8/ AMTA would recommend that only channels already constructed be included.

9/ AMTA considered, but rejected, the recommendation of a more exacting standard. While it fully expects that market demand will mandate the implementation of even more spectrally efficient equipment in many areas, the Association also wants to encourage the use of improved technology in markets where enhanced offerings, rather than spectrum shortages, will dictate the appropriate equipment choice. AMTA is reluctant to suggest a standard which might preclude potential spectrum efficiency enhancements during this period of widespread technological experimentation.

The FCC would then grant licenses in descending order from applicants with the greatest number of discrete channels to the fewest. Because multiple applicant groups will presumably include duplicate frequencies in their proposals (based on the inclusion within them of co-channel licensees), channels assigned to a "higher" ranked applicant would be deleted from the requests of subsequent applicants, and the rank order adjusted accordingly.10/

AMTA recommends prioritizing applicants based on number of discrete frequencies for several reasons. First, larger channel blocks are needed to justify an investment in advanced technology equipment. Second, a larger pool of available frequencies will generally permit superior and more efficient system design. Third, and equally important, this standard will provide an incentive for even the largest operator in the market to solicit the participation of other SMRs since a combination of small operators might otherwise outrank him. In this respect, AMTA anticipates that its proposal will prove inclusive rather than exclusive.

10/ The issuance of a block license will, of course, be contingent on continued co-channel protection to existing licensees. Thus, while a lower-ranked applicant group might not be entitled to re-use certain frequencies within the area, that would not affect the rights of the participating licensee vis-a-vis his existing station. AMTA herein reaffirms its position that the FCC's policy of routinely granting waivers of the trunked mileage separation criteria based on 40/30 dBu contour analyses does not provide adequate co-channel protection for trunked SMR systems and requests that any block licenses issued pursuant to this proposal satisfy a 40/22 dBu co-channel separation standard. See, AMTA Petition for Reconsideration in PR Docket No. 90-34.

The Association believes that the approach described would satisfy its other criteria as well. It would facilitate the development of wide-area systems. It would be relatively easy to administer since it would require neither lotteries, nor auctions, nor comparative hearings to issue licenses[11]. Having been granted block licenses, system operators would be required to notify the FCC, rather than request FCC approval, when individual frequencies were placed in operation at individual locations within the area, again conditioned upon protection to existing co-channel licensees.[12]

AMTA also recommends the following parameters to its proposal:

- All unassigned SMR frequencies should remain available for the expansion of existing, qualified SMR systems or for new trunked applicants under applicable rules.[13]

---

[11] As described below, AMTA does recommend the limited use of lotteries to award licenses in areas where spectrum is relatively plentiful.

[12] There will be a need for a mechanism to address inter-market frequency coordination among adjacent area licensees. For example, block licensees using common channels in adjacent markets will need to keep not only their transmitters but their coverage within their respective service areas, as will any later granted licensee of an individual co-channel facility in an adjacent market. In AMTA's opinion, those matters would be best resolved outside of the FCC by an organization such as this Association.

[13] The Association recommends that all non-trunked applicants be assigned 900 MHz channels except in the following circumstances: frequencies are needed to expand a fully loaded 800 MHz system; a showing is made to justify the need for inter-system compatibility with an existing 800 MHz licensee; or an exclusive channel is required and no such frequency is available at 900 MHz.

- Any licensee who did not participate in a window filing could later elect to join a block license or to create a new applicant with any "uncommitted" frequencies.

AMTA has also considered what would constitute a reasonable amount of time for construction of the advanced technology systems authorized to SMR block licensees. The Association has weighed both the importance of ensuring that these authorizations reflect the actual business plans of qualified applicants prepared to implement these systems expeditiously and the reality that advanced technology equipment is not yet commercially available and may have somewhat limited distribution initially. The Association has also endeavored to reconcile the differing schedules for spectrum deficient versus less urbanized markets. System operators will undoubtedly have sufficient marketplace demand to warrant prompt and geographically inclusive coverage in areas of spectrum shortages. By contrast, implementation may proceed at a more measured pace in markets where capacity is not as constrained and user demand less intense. Finally, it has taken into account the fact that all of the channels involved have already been constructed and are serving customers, albeit in an analog format.

The Association recommends that the system implementation schedule for SMR block licenses balance these different factors. Thus, AMTA proposes that licensees be required to construct at least 20% of their authorized channels using advanced technologies covering 75% of either the population or the land area of the market within five years. In the Association's

opinion, licensees in more urban areas will likely exceed that minimum requirement, but it will encourage the implementation of advanced technology systems even in essentially rural areas.

B. Markets With 42 or More Unassigned Frequencies

In markets of relative spectrum abundance, AMTA recommends that the FCC create one or two, but no more than two, block licenses of 42 channels each to be assigned through a lottery process. Block license lottery selectees would receive authority to use those unassigned channels throughout the market, subject only to inter-market frequency coordination.

However, because these licenses would consist of unconstructed channels being assigned to new entities, the following, additional requirements would also apply:

- The application fee would be $200 per channel rather than $35 per site to discourage speculation.
- At least 20% of the assigned channels would have to be constructed with advanced technology equipment somewhere within the defined area within one year of grant or the entire license would be forfeited. Any unconstructed channels would be recovered at the five year renewal date.
- Licenses would not be transferable prior to completion of the initial 20% construction requirement.

In addition, the Association recommends that existing licensees be permitted to apply under the block licensing procedures described in Section A above. SMR operators already serving these markets should have the option of consolidating their own frequencies or combining with other licensees to secure a block authorization, or, alternatively, of applying for a

license under the lottery process proposed. This would further enhance the likelihood of competition even in less urbanized communities.

CONCLUSION

The need to adopt a regulatory procedure for authorizing wide-area, advanced technology SMR systems has been fully demonstrated. The industry is eager to have the option, but not the requirement, to participate in bringing such systems to the public. AMTA believes that the instant proposal properly balances the interests of existing versus prospective licensees, urban versus rural market needs, smaller versus larger operators, and advanced technology versus analog proponents.

For the reasons described above, AMTA urges the Commission to adopt a Notice of Proposed Rule Making consistent with the recommendations herein at its earliest convenience.

CERTIFICATE OF SERVICE

I, M.A. Spinks, a secretary in the law office of Lukas, McGowan, Nace & Gutierrez, hereby certify, that I have on this 26th day of October, 1992, caused to have hand delivered a copy of the foregoing **PETITION FOR RULE MAKING** to the following:

Ralph Haller, Chief
Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Richard J. Shiben, Chief
Land Mobile and Microwave Division
Private Radio Bureau
Federal Communications Commission
2025 M Street N.W., Room 5202
Washington, D.C. 20554

F. Ronald Netro, Chief
Rules Branch
Land Mobile and Microwave Division
Private Radio Burea
Federal Communications Commission
2025 M Street N.W., Room 5126
Washington, D.C. 20554

Terry L. Fishel, Chief*
Land Mobile Branch
Licensing Division
Private Radio Bureau
Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA 17325

M.A. Spinks

* By Federal Express